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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BRIARCLIFF MANOR, NY 10510

EXAMINER

SHELEHEDA, JAMES R

ART UNIT

PAPER NUMBER

2424

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,022

Applicant(s)

MONTVAY ET AL.

Examiner

JAMES SHELEHEDA

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 01/19/09 have been fully considered but they are not persuasive.

On pages -56, of applicants response, applicant argues that Maissel fails to disclose that "at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium".

In response, Maissel specifically discloses where the user profile and preferences may be based upon multiple viewers preferences within a household (paragraph 134).

Thus, this meets the claim limitations, as the preferences of other viewers in the household may be used to determine programming preferences.

Further, Maissel discloses where the user may select other profiles, for preferences relating to different users within the television network, to be used for determining preferred programming (paragraph 154-155).

This again meets the claim limitations, as the preferences of other selected viewer within the television network may be used to determine programming preferences.

Therefore, applicant's arguments are not convincing.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Maissel et al. (Maissel) (US 2004/0049787 A1) (of record).

As to claim 1, Maissel discloses a method of controlling the program selection at the receiver (customization of the program guide; paragraphs 134-147) of at least one broadcast medium (television network; paragraph 101), the method comprising the steps of:

managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) accordance with predetermined criteria (contained within preference profiles; paragraph 134), and in which at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154); and

adapting the receiver's program selection of the receiver to allow a user to navigate through the list (paragraph 201) of preferred programs in accordance with the predetermined criteria (paragraph 134-147).

As to claim 2, Maissel discloses wherein the program evaluation is gained from an inquiry of evaluation notes by other users (paragraph 124, 134,154).

As to claim 3, Maissel discloses wherein at least a part of the predetermined criteria is based on information about:

explicitly predetermined user preferences (paragraph 124); and
implicitly gained user preference (paragraph 123).

As to claim 4, Maissel discloses wherein the criteria are weighted adaptively (paragraph 169).

As to claim 5, Maissel discloses wherein control inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C).

As to claim 6, Maissel discloses a method of controlling the program selection at the receiver of at least one broadcast medium, in which a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) is managed in accordance with predetermined criteria (contained within preference profiles; paragraph 134), and in which control inputs enable a user to navigate stepwise through the list (paragraph 201-203; Fig. 9A-9C), particularly a method as claimed in claim 1 (see the rejection of claim 1 above), wherein a new program is added to the list

(paragraph 134, 135 and 138), when its limits are exceeded when navigating through said list (program viewing which exceeds a set minimum time period; paragraph 178).

As to claim 8, Maissel discloses wherein program information is supplied when a program is selected from the list (paragraph 201).

As to claim 9, Maissel discloses a receiver for at least one broadcast medium (110, Fig. 1; paragraph 101), comprising a processing unit (paragraph 102) for managing a list of preferred programs (customized program listings based upon user preference; paragraphs 134-147) in accordance with predetermined criteria (contained within preference profiles; paragraph 134), wherein the processing unit has an input for information signals relating to the program evaluation by other users of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154) and wherein it is adapted to perform a method as claimed in claim 1 (see the rejection of claim 1 above).

As to claim 10, Maissel discloses a method as claimed in claim 1 (see claim 1 above), or a receiver as claimed in claim 9 (see claim 9 above), wherein the broadcast medium is television (paragraph 101).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel.

As to claim 7, while Maissel discloses wherein the order of the programs within the listing may be changed (paragraph 136), he fails to specifically disclose wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant sort a program listing wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion, such as by sorting the programs within the list by start time wherein programs having a later start time are listed later within the list, so as to provide a more user friendly system by easily allowing the viewer to identify which programs are currently playing and which programs require the viewer to wait some period of time until they begin.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Maissel's system to include wherein programs fulfilling a temporally limited negative criterion are positioned at a distance from the current navigation position in the list, which distance corresponds to the remaining duration of the negative criterion, so as to provide a more user friendly system by easily allowing

the viewer to identify which programs are currently playing and which programs require the viewer to wait some period of time until they begin.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Application/Control Number:
10/531,022
Art Unit: 2424

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
(Date)

Typed or printed name of person signing this certificate:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/
Examiner, Art Unit 2424

JS